



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 4456-00  
10 December 2002

CDR [REDACTED] SC USN  
[REDACTED]  
[REDACTED]

Dear Command [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

You requested, in effect, removal of your failures of selection by the Fiscal Year (FY) 2001 through 2003 Medical Service Corps (MSC) Captain Selection Boards; special selection board consideration for the FY 2000 Naval Reserve MSC Captain Selection Board, by which you were not considered; and amendment of the remedial memorandum now in your naval record, stating you have served on active duty continuously since your discharge from the Regular Navy on 31 January 1990, to show you are "USN" (United States Navy) vice "USNR" (United States Naval Reserve); delete reference to discharge; and modify the fitness reports you received while on inactive duty.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 December 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command (NPC) dated 10 August 2000 and 11 January 2001, the memorandum for the record dated 18 October 2002, and the NPC electronic mail dated 18 October 2002, copies of which are attached. They also considered your undated rebuttal letter, your letter dated 4 June 2001 with enclosures, and your letter dated 21 June 2001 with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board substantially concurred with the comments contained in the advisory opinion dated 10 August 2000 concerning your contentions that you improperly missed the FY 2000 Naval Reserve MSC Captain Selection Board, and that you should have been deferred from the FY 2001 MSC Captain Selection Board. They found no unfairness in your consideration by that promotion board, which convened on 18 January 2000, less than five months after your actual return to active duty on 31 August 1999, noting you received a fitness report on 7 January 2000 for your active duty from 31 August to 31 December 1999. They noted your consideration by the FY 2001 MSC Captain Selection Board was not merely above zone, but above zone not previously considered.

The Board found their approved action in your prior case, docket number 7502-96, was not properly implemented before your consideration by the FY 2001 MSC Captain Selection Board; specifically, your record did not clarify that you were to be treated as having served on active duty as a Naval Reserve officer continuously since your discharge from the Regular Navy on 31 January 1990. However, they found you did not exercise due diligence to check your record. They noted that the NPC corrective action was effected by 12 April 1999, and that the FY 2001 MSC Captain Selection Board convened on 18 January 2000. They concluded you had time to take appropriate action concerning the improper correction of your record.

The Board found your record still was not properly corrected for the FY 2002 and 2003 MSC Captain Selection Boards, noting that the remedial memorandum was not filed until after these promotion boards had met. However, they found you could have communicated with these promotion boards to ensure they were aware of your correct status between your discharge from the Regular Navy and your restoration to active duty on 31 August 1999.

The Board was not convinced that the letter-supplement of 17 May 2001, concerning your fitness report for 1 January to 31 August 2000, should have been available to the FY 2002 MSC Captain Selection Board, which convened on 22 January 2001.

Finally, the Board found their remedial memorandum should not be amended as you requested. While you are currently a Regular Navy officer, the memorandum correctly identifies you as "USNR," as your status, when the Board's prior action was approved, was that of a Naval Reserve officer on active duty. Their approved recommendation that you be nominated for a Regular Navy appointment did not, in itself, make you a Regular Navy officer. They found the memorandum correctly references your discharge from the Regular Navy, as your corrected record should show you were commissioned in the Naval Reserve on 1 February 1990, after your discharge from the Regular Navy on 31 January 1990. In regard to your inactive duty fitness reports, recommendation j of the Board's prior approved action specifically provided that all fitness reports you received in the Naval Reserve after your discharge from the Regular Navy on 31 January 1990 and before your return to active duty were to be retained in your record. No amendment of these reports was directed.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



DEPARTMENT OF THE NAVY  
BUREAU OF NAVAL PERSONNEL  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

5420  
Pers 85  
10 Aug 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: BUPERS/BCNR Coordinator (PERS-00ZCB)

Subj: CDR [REDACTED] MSC, USN [REDACTED]

Ref: (a) BCNR Docket No: 7502-96 dtd 25 Jan 99

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of [REDACTED] request for removal of his failure of selection before the FY-01 Active Duty Captain Medical Service Corps Promotion Selection Board and disapproval of his request for a FY-00 Inactive Captain Medical Service Corps Special Promotion Selection Board.

2. [REDACTED] was considered by the FY-01 Active Captain Medical Service Corps Promotion Selection Board as above-zone not previously considered - this equates to in-zone consideration, not above-zone as he states in enclosure (1). Additionally, CDR [REDACTED]'s assertion that PERS-85 unilaterally ignored the deferment provision in BUPERS Order 1806 is incorrect. The BCNR action contained in reference (a) stated that [REDACTED] record be corrected to show that he has served continuously on active duty in the Naval Reserve since his discharge from the Regular Navy. Additionally, his record was corrected further by removing his DD-214, "Certificate of Release or Discharge from Active Duty," showing that he never left active duty. His claim that he 'entered' active duty on 31 August 1999 and therefore should have been deferred is in direct contradiction to BCNR's directed correction.

3. It is our opinion that [REDACTED] is not entitled to a FY-00 Inactive Captain Medical Service Corps Special Promotion Board. The record corrections were granted by BNCR on 25 January 1999, per reference (a). All administrative and BCNR actions were completed by PERS-851 on 5 April 1999 to adjust his precedence number and the officer master file (OMF) showing continuous service on active duty. This record correction was

made prior to the convening of the FY-00 Inactive Captain Medical Service Corps Promotion Selection Board on 10 May 1999, thus making [redacted] ineligible for that board.

4. Recommend disapproval of [redacted] request for removal of his FOS and a special board. PERS-86 should be contacted if additional opinions are needed regarding [redacted] eligibility before the FY-00 Inactive Captain Medical Service Corps Promotion Selection Board.

[redacted]

BCNR Liaison, Officer Promotions  
and Enlisted Advancements  
Division



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL  
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MILLINGTON TN 38055-0000

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11 Jan 01

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: BUPERS/BCNR Coordinator (PERS-00ZCB)

Subj: [REDACTED] MSC, US [REDACTED]

Ref: (a) BCNR memo 5420 PERS-00ZCB of 10 Jan 01

Encl: (1) BCNR File 04456-00

1. Enclosure (1) is returned, recommending no action. A check of [REDACTED] official record that went before the FY-01 Active Captain Medical Service Corps Promotion Selection Board did not reveal any BCNR action report filed in his record. The only indication of any BCNR action was the presence of a memorandum in lieu of fitness report for the period of 21 November 1987 to 2 December 1988.

[REDACTED]

BCNR Liaison, Officer Promotions  
and Enlisted Advancements  
Division

18 October 2002

MEMORANDUM FOR RECORD

Re: [REDACTED] MSC, US [REDACTED]

Today HQMC MMP [REDACTED] advised that in cases where a Marine Corps officer who was on inactive duty is retroactively reinstated to active duty by BCNR action, and is to face an active duty promotion board within one year after returning to active duty, Marine Corps practice is to grant the officer deferment of consideration by the promotion board.

[REDACTED] *[Signature]*

Head, Performance Section

Ruskin, Jonathan S

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From: [REDACTED]  
Sent: [REDACTED] 10:12 AM  
To: [REDACTED]  
Subject: SELECTION BOARD STATUS ICO CDR DELLINGER

[REDACTED] BCNR was received by PERS-80 in April 1999. The officer would have been eligible for the reserve board had it not directed that the officer be considered as never being a reserve officer. (Reserve Captain Staff Board convened on 10 May 1999 with the zone being Senior in Zone 1 Jul 1994 Junior in Zone 1 Oct 1995 (ALNAV 097/98))

He did not go before the active FY-00 board which he would have been in zone for because of the late arrival of the BCNR findings (April 1999 board convened 8 February 1999). The findings did not direct a special board, so the officer was placed as admin in zone not previously considered for the FY-01 board.

I apologize for the miss information I provided yesterday

[REDACTED] rs  
[REDACTED]  
[REDACTED]